

## SUBCHAPTER B—RECORDS MANAGEMENT

### PART 1220—FEDERAL RECORDS; GENERAL

Sec.

1220.1 Scope of subchapter.

1220.2 Responsibility for records management programs.

#### Subpart A—General Provisions

1220.10 Authority.

1220.12 Applicability.

1220.14 General definitions.

1220.16 Reports to the Congress and the Director of the Office of Management and Budget.

1220.18 Inspection of records subject to the Privacy Act of 1974.

#### Subpart B—Agency Records Management Programs

1220.30 Authority.

1220.32 Program content.

1220.34 Creation of records.

1220.36 Maintenance and use of records.

1220.38 Disposition of records.

1220.40 Liaison offices.

1220.42 Agency internal evaluations.

#### Subpart C—NARA Evaluation Program

1220.50 Authority.

1220.52 Purpose and scope.

1220.54 Evaluation process.

1220.56 Evaluation report.

1220.58 Agency action plans and progress reports.

1220.60 Followup notification and reviews.

AUTHORITY: 44 U.S.C. 2104(a) and chs. 29 and 33.

SOURCE: 50 FR 26930, June 28, 1985, unless otherwise noted.

#### § 1220.1 Scope of subchapter.

Subchapter B prescribes policies for Federal agencies' records management programs relating to records creation and maintenance, adequate documentation, and proper records disposition.

#### § 1220.2 Responsibility for records management programs.

The National Archives and Records Administration Act of 1984 amended the records management statutes to divide records management responsibilities between the National Archives and Records Administration (NARA)

and the General Services Administration (GSA). Under the Act, NARA is responsible for adequacy of documentation and records disposition and GSA is responsible for economy and efficiency in records management. NARA regulations are codified in this subchapter. GSA records management regulations are codified in 41 CFR chapter 201, Subchapters A and B. Federal agency records management programs must be in compliance with regulations promulgated by both NARA and GSA.

[57 FR 19807, May 8, 1992]

#### Subpart A—General Provisions

##### § 1220.10 Authority.

The regulations in this part are issued under the provisions of the National Archives and Records Administration Act of 1984 (Pub. L. 98-497, 44 U.S.C. 101 *note*).

##### § 1220.12 Applicability.

The regulations in subchapter B apply to all Federal agencies as defined in § 1220.14.

##### § 1220.14 General definitions.

As used in subchapter B—

*Agency* (see *Executive agency* and *Federal agency*).

*Adequate and proper documentation* means a record of the conduct of Government business that is complete and accurate to the extent required to document the organization, functions, policies, decisions, procedures, and essential transactions of the agency and that is designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

*Appraisal* is the process by which the National Archives and Records Administration (NARA) determines the value and thus the final disposition of Federal records, making them either temporary or permanent.

*Comprehensive schedule* is a printed agency manual or directive containing descriptions of and disposition instructions for all documentary materials,

record and nonrecord, created by a Federal agency or major component of an Executive department. Unless taken from the General Records Schedules (GRS) issued by NARA, the disposition instructions for agency records must be approved by NARA on one or more Standard Form(s) 115, Request for Records Disposition Authority, prior to issuance by the agency. The disposition instructions for the nonrecord material are established by the agency and do not require NARA approval.

*Contingent records* are records whose final disposition is dependent on an action or event, such as sale of property or destruction of a facility, which will take place at some unspecified time in the future.

*Disposition* means those actions taken, after appraisal by NARA, regarding records no longer needed for the conduct of the regular current business of the agency. 44 U.S.C. 2901(5) defines *records disposition* as any activity with respect to:

(a) Disposal of temporary records no longer needed for the conduct of business by destruction or donation to an eligible person or organization outside of Federal custody in accordance with the requirements of part 1228 of this chapter.

(b) Transfer of records to Federal agency storage facilities or records centers;

(c) Transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; or

(d) Transfer of records from one Federal agency to any other Federal agency in accordance with the requirements of part 1228 of this chapter.

*Documentary materials* is a collective term for records and nonrecord materials that refers to all media on which information is recorded, regardless of the nature of the medium or the method or circumstances of recording.

*Evaluation* means the selective or comprehensive inspection, audit, or review of one or more Federal agency records management programs for effectiveness and for compliance with applicable laws and regulations. It includes recommendations for correcting or improving records management poli-

cies, procedures, and activities, and follow-up activities, including reporting on such activities, for implementing the recommendations.

*Executive agency* means any executive department or independent establishment in the executive branch of the Government, including any wholly-owned Government corporation.

*Federal agency* means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Supreme Court, Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction). (44 U.S.C. 2901(14)).

*File* means an arrangement of records. The term is used to denote papers, photographs, photographic copies, maps, machine-readable information, or other recorded information regardless of physical form or characteristics, accumulated or maintained in filing equipment, boxes, or machine-readable media, or on shelves, and occupying office or storage space.

*National Archives of the United States* means those records that have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government and that have been transferred to the legal custody of the Archivist of the United States on a Standard Form 258 (Request to Transfer, Approval, and Receipt of Records to National Archives of the United States).

*Nonrecord materials* are those Federally owned informational materials that do not meet the statutory definition of records (44 U.S.C. 3301) or that have been excluded from coverage by the definition. Excluded materials are extra copies of documents kept only for reference, stocks of publications and processed documents, and library or museum materials intended solely for reference or exhibit.

*Permanent record* means any Federal record that has been determined by NARA to have sufficient value to warrant its preservation in the National Archives. Permanent records include all records accessioned by NARA's Office of the National Archives and later increments of the same records, and

those for which the disposition is *permanent* on SF 115s, Request for Records Disposition Authority, approved by NARA on or after May 14, 1973.

*Recordkeeping requirements* means all statements, in statutes, regulations, and agency directives or authoritative issuances, providing general and specific guidance for Federal agency personnel on particular records to be created and maintained by the agency.

*Recordkeeping system* is a manual or automated system in which records are collected, organized, and categorized to facilitate their preservation, retrieval, use, and disposition.

*Records* include all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the Government or because of the informational value of the data in them (44 U.S.C. 3301).

*Records maintenance and use*, as used in subchapter B, means any activity involving location of records of a Federal agency or the storage, retrieval, and handling of records kept at office file locations by or for a Federal agency.

*Records management*, as used in subchapter B, means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations.

*Records schedule or schedule* means

(a) An SF 115, Request for Records Disposition Authority, that has been approved by NARA to authorize the disposition of Federal records;

(b) A General Records Schedule (GRS) issued by NARA; or

(c) A printed agency manual or directive containing the records descrip-

tions and disposition instructions approved by NARA on one or more SF 115s or issued by NARA in the GRS. (See also the definition *Comprehensive schedule*.)

*Series* means file units or documents arranged according to a filing system or kept together because they relate to a particular subject or function, result from the same activity, document a specific kind of transaction, take a particular physical form, or have some other relationship arising out of their creation, receipt, or use, such as restrictions on access and use. Also called a *records series*.

*Temporary records*. A temporary record is any record which has been determined by the Archivist of the United States to have insufficient value (on the basis of current standards) to warrant its preservation by the National Archives and Records Administration. This determination may take the form of:

(a) A series of records designated as disposable in an agency records disposition schedule approved by NARA (Standard Form 115, Request for Records Disposition Authority); or

(b) A series of records designated as disposable in a General Records Schedule.

*Unscheduled records* are records the final disposition of which has not been approved by NARA. Unscheduled records are those that have not been included on a Standard Form 115, Request for Records Disposition Authority, approved by NARA; those described but not authorized for disposal on an SF 115 approved prior to May 14, 1973; and those described on an SF 115 but not approved by NARA (withdrawn, canceled, or disapproved).

[45 FR 5705, Jan. 24, 1980 and 50 FR 26931, 26933, June 28, 1985, as amended at 52 FR 34134, Sept. 9, 1987; 55 FR 27423, 27427, July 2, 1990; 57 FR 19807, May 8, 1992; 59 FR 28783, June 3, 1994; 60 FR 44639, Aug. 28, 1995]

#### **§ 1220.16 Reports to the Congress and the Director of the Office of Management and Budget.**

Under 44 U.S.C. 2904(c)(8), the Archivist of the United States is required to report to Congress and the Office of Management and Budget annually on

## National Archives and Records Administration

## § 1220.40

the results of records management activities, including evaluations of responses by Federal agencies to any recommendations resulting from studies or inspections conducted by NARA.

### **§ 1220.18 Inspection of records subject to the Privacy Act of 1974.**

In accordance with 44 U.S.C. 2906, when NARA inspects an agency record which is contained in a system of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), the records shall be maintained by the Archivist or his designee as a record contained in a system of records or considered to be a record contained in a system of records for the purposes of subsections (b), (c), and (i) of section 552a of title 5.

## **Subpart B—Agency Records Management Programs**

### **§ 1220.30 Authority.**

Section 3101 of title 44 U.S.C. requires the head of each Federal agency to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

### **§ 1220.32 Program content.**

Agency programs shall, among other things, provide for:

(a) Cooperation with NARA in developing and applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for permanent preservation, and facilitate the segregation and disposal of temporary records.

(b) Compliance with sections 2101–2117, 2501–2507, 2901–2909, 3101–3107, and 3301–3314 of title 44 U.S.C. and with NARA regulations issued in title 36 of the Code of Federal Regulations.

### **§ 1220.34 Creation of records.**

Adequate records management controls over the creation of Federal agency records shall be instituted to ensure

that agency functions are adequately and properly documented. Federal agencies shall also comply with GSA regulations on creation of records found in 41 CFR part 201-9.

[57 FR 19807, May 8, 1992]

### **§ 1220.36 Maintenance and use of records.**

Adequate records management controls over the maintenance and use of records shall be instituted to ensure that permanent records can be located when needed and that they are preserved for eventual transfer to the National Archives of the United States. Agencies shall also be in compliance with GSA regulations on the maintenance and use of records found in 41 CFR part 201-9.

[57 FR 19807, May 8, 1992]

### **§ 1220.38 Disposition of records.**

Provision shall be made to ensure that permanent records are preserved but that records no longer of current use to an agency are promptly disposed of or retired. Effective techniques for the accomplishment of these ends are the development of records disposition schedules; the transfer of records to records centers and the National Archives of the United States; the conversion of the information to other media; and the disposal of valueless records. Disposition of any records requires the approval of the Archivist of the United States (see part 1228 of this chapter).

### **§ 1220.40 Liaison offices.**

An office or offices within each Federal agency shall be assigned responsibility for the development of the records management program required by this part. The office to which responsibility is assigned shall be reported to the Office of Records Administration, National Archives (NIA), Washington, DC 20408. The name, title, and telephone number of the official or officials authorized by the head of the agency to approve records disposition schedules and transfers of records to the custody of the National Archives shall also be submitted to the Office of Records Administration.

**§ 1220.42 Agency internal evaluations.**

Each agency shall periodically evaluate its records management programs relating to records creation and record-keeping requirements, maintenance and use of records, and records disposition. These evaluations shall include periodic monitoring of staff determinations of the record status of documentary materials, including electronic mail, and implementation of these decisions. These evaluations should determine compliance with NARA regulations in subchapter B of this chapter and assess the effectiveness of the agency's records management program.

[60 FR 44639, Aug. 28, 1995]

### Subpart C—NARA Evaluation Program

SOURCE: 59 FR 28783, June 3, 1994, unless otherwise noted.

**§ 1220.50 Authority.**

44 U.S.C. chapter 29 vests in the Archivist of the United States the responsibility for providing guidance and assistance to Federal agencies with respect to ensuring adequate and proper documentation and proper records disposition. Sections 2904 and 2906 specifically authorize the Archivist to conduct inspections or surveys of records and records management programs and practices within and between Federal agencies and require officers and employees of agencies to cooperate fully in such inspections. Section 2904 also authorizes the Archivist to report to the appropriate oversight and appropriations committees of the Congress and the Director of OMB on the results of inspections, the responses by agencies to NARA evaluation recommendations, and estimates of the costs to the Federal government resulting from the failure to implement such recommendations.

**§ 1220.52 Purpose and scope.**

(a) NARA evaluations assess how effectively Federal agencies make and preserve complete and accurate records of their organization, functions, policies, decisions, procedures, and essential transactions; and maintain an active, continuing records management

program including proper records disposition. Agencies shall be evaluated for compliance with requirements in 44 U.S.C. chapters 31 and 33 and all the regulations issued thereunder in 36 CFR subchapter B.

(b) NARA evaluations may include comprehensive reviews of agency records management programs, or selective reviews focused on adequate and proper documentation, on records disposition, on the management of specific types of record media or on the management of records in particular program areas. NARA evaluations may be of one agency or may be multi-agency. These evaluations may be conducted solely within headquarters offices, only at field locations, or at a combination of field sites and headquarters.

(c) Evaluations will involve site visits by NARA; submission by NARA to the agency of a written report containing findings, analyses, and recommendations; and submission to NARA by the agency of an action plan for implementing the recommendations followed by regular progress reports. Interagency report control number 0153-NARA-AR has been assigned to the action plan and progress reports in accordance with 41 CFR subpart 201-45.6.

**§ 1220.54 Evaluation process.**

(a) NARA shall select Federal agencies to be evaluated on the basis of perceived need by NARA or specific request by the agency, or on the basis of a compliance monitoring cycle developed by NARA. NARA will determine the scope of the evaluation. An agency may request an evaluation of its records management program by contacting the Assistant Archivist for Records Administration; however, the final determination of agencies to be evaluated will be made by NARA. The heads of agencies will be notified in writing by the Archivist of the United States of the intent to conduct an evaluation and the scope of the evaluation at least 180 calendar days prior to initiating the evaluation.

(b) Once NARA has notified the agency, the agency head will, by the date specified in the Archivist's letter:

(1) Acknowledge in writing NARA's intention to evaluate, and provide the Archivist with the name and telephone number of the senior official with overall responsibility for records management and of a headquarters official who will work with NARA to facilitate the evaluation process;

(2) Provide written notification of the evaluation to all appropriate offices and employees and contractors potentially involved; this notification will include instructions to cooperate with NARA by setting up interviews, providing requested information, and making records available for inspection;

(3) Provide NARA with a copy of the written notification in paragraph (b)(2) of this section and with a list of names and telephone numbers of officials responsible for records management in field sites, if applicable, who will work with NARA during the evaluation;

(4) For comprehensive evaluations, provide NARA with a set of internal records management directives, orders, bulletins, or similar authoritative issuances; copies of the two most recent internal records management evaluations; and any special records-related reports. Included may be: issuances relating to adequate and proper documentation and record-keeping requirements; personal papers; management and disposition of textual, electronic, audiovisual, cartographic and architectural, micrographic, and vital records; disaster mitigation and recovery; and any other records-related documentation requested by NARA. A subset of this documentation will be requested for more limited evaluations;

(5) Provide NARA with a current version of the agency manual(s) covering records creation, maintenance, storage, and disposition, and a list of information systems maintained as required by OMB Circular A-130, section 9a(5), and a list of offices and/or functions and activities not currently covered by schedules;

(6) Arrange for appropriate management and program officials in headquarters and, if applicable, at field sites to be briefed by NARA at the beginning and at the end of the evaluation process; and

(7) Take immediate corrective action regarding any serious problems that NARA may bring to the agency's attention during the course of the evaluation process such as the unauthorized destruction of records or the unauthorized donation or other transfer of records to non-NARA facilities.

#### **§ 1220.56 Evaluation report.**

(a) NARA will submit a draft evaluation report for factual review and comment to the agency within 120 calendar days of the last evaluation site visit or exit briefing. After receipt of agency comments, NARA will finalize the report, incorporating any changes resulting from factual errors identified by the agency. The final report will be transmitted by the Archivist to the head of the agency within 30 calendar days of receiving comments from the agency.

(b) The head of the agency will:

(1) Comment within 60 calendar days, in writing, on the contents of the draft report. If necessary, agencies can request extensions. No response from the agency within the allotted time will indicate that the agency concurs in the factual accuracy of the draft report.

(2) Review the final report and assign implementation responsibility; and

(3) Distribute the final report to all concerned and appropriate persons and offices.

#### **§ 1220.58 Agency action plans and progress reports.**

(a) *Action plans.* (1) The action plan will be submitted to NARA within 90 calendar days after the date of transmittal of the final report. If necessary, agencies can request extensions. The plan shall be submitted by the agency head or the designated senior official for information resources management. The action plan will include:

(i) The name of the senior official and the office responsible for coordinating implementation agency-wide;

(ii) The specific action(s) the agency will take to implement each evaluation report recommendation. If an agency is unable to implement a recommendation, the rationale for not acting shall be documented in the action plan;

(iii) The name of the official and office or program responsible for the

overall coordination of the agency's followup actions who will be the liaison with NARA;

(iv) The estimated time needed to complete each action and the proposed quarter and year for starting and completing each action;

(v) Major milestones with dates for tracking the completion of implementation actions that are expected to extend longer than 3 years past the date of the action plan; and,

(vi) If requested by NARA, separate action plans for each field site visited, incorporating the information required by paragraphs (a)(1)(i) through (a)(1)(v) of this section.

(2) NARA will analyze the action plan(s) submitted by the agency for adequacy and effectiveness in implementing the recommendations contained in the evaluation report. NARA will provide comments to the agency on the plan(s) within 60 calendar days.

(3) The agency will revise the action plan until it is approved by NARA.

(b) *Progress reports.* (1) Once the action plan(s) has been approved by NARA, the head of the agency will submit progress reports to NARA every 6 months. The reports will include:

(i) A description of what has been accomplished on each action since the last report;

(ii) The current status of the action;

(iii) Any changes in the offices or programs responsible for over-all or specific action implementation; and,

(iv) If appropriate, explanation of any delays in implementation and revised target dates and milestones for completion of the action.

(2) The agency will continue to submit these progress reports until NARA and the agency agree all actions have been completed, NARA and the agency agree that the agency has implemented the recommendation(s) to the fullest extent possible, or NARA indicates in writing that regular progress reports are no longer required.

(3) NARA will review and comment on agency progress reports, and work closely with the agency to provide assistance in evaluation implementation.

**§ 1220.60 Follow-up notification and reviews.**

(a) If NARA determines that there is not substantial progress in the full implementation of evaluation recommendations or that the agency has not corrected serious problems identified in the report, the Archivist, after notifying the head of the agency, may notify Congress and appropriate Federal oversight agencies of the evaluation findings and the agency response.

(b) NARA may initiate follow-up reviews at specific offices or field sites. Results of these follow-up reviews shall be communicated to the head of the agency and, if NARA determines it to be appropriate, to Congress and Federal oversight agencies.

**PART 1222—CREATION AND MAINTENANCE OF FEDERAL RECORDS**

**Subpart A—General**

Sec.

1222.10 Authority.

1222.12 Defining Federal records.

**Subpart B—Program Requirements**

1222.20 Agency responsibilities.

**Subpart C—Standards for Agency Recordkeeping Requirements**

1222.30 Purpose.

1222.32 General requirements.

1222.34 Identifying Federal records.

1222.36 Identifying personal papers.

1222.38 Categories of documentary materials to be covered by recordkeeping requirements.

1222.40 Removal of records.

1222.42 Removal of nonrecord materials.

1222.44 Directives documenting agency programs, policies, and procedures.

1222.46 Recordkeeping requirements of other agencies.

1222.48 Data created or received and maintained for the Government by contractors.

1222.50 Records maintenance.

AUTHORITY: 44 U.S.C. 2904, 3101, and 3102.

SOURCE: 55 FR 27423, July 2, 1990, unless otherwise noted.

**Subpart A—General**

**§ 1222.10 Authority.**

(a) 44 U.S.C. 2904, vests in the Archivist of the United States responsibility